

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-00797-CKK**

ELECTRONIC PRIVACY INFORMATION CENTER v. U.S.
IMMIGRATION AND CUSTOMS ENFORCEMENT

Assigned to: Judge Colleen Kollar-Kotelly

Cause: 05:552 Freedom of Information Act

Date Filed: 04/09/2018

Jury Demand: None

Nature of Suit: 895 Freedom of
Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

**ELECTRONIC PRIVACY
INFORMATION CENTER**

represented by **Alan Jay Butler**
ELECTRONIC PRIVACY
INFORMATION CENTER
1718 Connecticut Avenue, NW
Suite 200
Washington, DC 20009
(202) 483-1140 ext 103
Fax: (202) 483-1248
Email: butler@epic.org
ATTORNEY TO BE NOTICED

Marc Rotenberg
ELECTRONIC PRIVACY
INFORMATION CENTER
1718 Connecticut Avenue, NW
Suite 200
Washington, DC 20009
(202) 483-1140, ext 106
Fax: (202) 483-1248
Email: rotenberg@epic.org
ATTORNEY TO BE NOTICED

Jeramie D. Scott
ELECTRONIC PRIVACY
INFORMATION CENTER
1718 Connecticut Avenue, NW
Suite 200
Washington, DC 20009
(202) 483-1140
Fax: (202) 483-1248
Email: jscott@epic.org
ATTORNEY TO BE NOTICED

V.

Defendant

**U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT**

represented by **Joshua L. Rogers**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2578
Fax: (202) 252-2599
Email: joshua.rogers3@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Doris Denise Coles-Huff
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA

555 Fourth Street, NW
 Washington, DC 20530
 (202) 252-2557
 Fax: (202) 252-2599
 Email: doris.coles@usdoj.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/09/2018	<u>1</u>	COMPLAINT against U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (Filing fee \$ 400 receipt number 0090-5411794) filed by ELECTRONIC PRIVACY INFORMATION CENTER. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons U.S. Attorney for the District of Columbia, # <u>3</u> Summons Attorney General of the United States, # <u>4</u> Summons U.S. Immigration and Customs Enforcement)(Scott, Jeramie) (Entered: 04/09/2018)
04/09/2018		Case Assigned to Judge Colleen Kollar-Kotelly. (zmd) (Entered: 04/10/2018)
04/10/2018	<u>2</u>	SUMMONS (3) Issued Electronically as to U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent) (zmd) (Entered: 04/10/2018)
04/16/2018	<u>3</u>	ORDER ESTABLISHING PROCEDURES FOR CASES ASSIGNED TO JUDGE COLLEEN KOLLAR-KOTELLY. Signed by Judge Colleen Kollar-Kotelly on 04/16/18. (DM) (Entered: 04/16/2018)
05/02/2018	<u>4</u>	NOTICE of Appearance by Marc Rotenberg on behalf of ELECTRONIC PRIVACY INFORMATION CENTER (Rotenberg, Marc) (Entered: 05/02/2018)
05/02/2018	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 4/25/2018. Answer due for ALL FEDERAL DEFENDANTS by 5/25/2018. (Scott, Jeramie) (Entered: 05/02/2018)
05/02/2018	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 04/24/2018. (Scott, Jeramie) (Entered: 05/02/2018)
05/02/2018	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT served on 4/23/2018 (Scott, Jeramie) (Entered: 05/02/2018)
05/09/2018	<u>8</u>	NOTICE of Appearance by Joshua L. Rogers on behalf of U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (Rogers, Joshua) (Entered: 05/09/2018)
05/23/2018	<u>9</u>	MOTION for Extension of Time to File Answer by U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (Attachments: # <u>1</u> Text of Proposed Order)(Rogers, Joshua) (Entered: 05/23/2018)
05/24/2018		MINUTE ORDER. The Court is in receipt of Defendant's <u>9</u> Motion for Extension of Time. Defendant requests an extension of time until June 25, 2018 to file an answer or other response to Plaintiff's Complaint because defense counsel is busy with other matters. This is the first motion for an extension of this deadline. As Defendant acknowledges, however, this motion was not filed in a timely manner. The Order Establishing Procedures in this case states that "[m]otions for extensions of time must be filed at least four (4) business days prior to the first affected deadline." ECF No. 4 at 3. Defense counsel represents that he has been unable to obtain Plaintiff's position on this motion. By no later than MAY 25, 2018, Plaintiff shall file a notice with the Court indicating whether it consents to this motion. Signed by Judge Colleen Kollar-Kotelly on 5/24/2018. (lcckk3) (Entered: 05/24/2018)
05/24/2018		Set/Reset Deadlines: Plaintiff's notice to the Court due by 5/25/2018. (kt) (Entered: 05/24/2018)
05/25/2018	<u>10</u>	NOTICE of Appearance by Alan Jay Butler on behalf of ELECTRONIC PRIVACY INFORMATION CENTER (Butler, Alan) (Entered: 05/25/2018)

05/25/2018	<u>11</u>	Memorandum in opposition to re <u>9</u> MOTION for Extension of Time to File Answer filed by ELECTRONIC PRIVACY INFORMATION CENTER. (Butler, Alan) (Entered: 05/25/2018)
05/25/2018	<u>12</u>	REPLY re <u>9</u> MOTION for Extension of Time to File Answer filed by U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT. (Rogers, Joshua) (Entered: 05/25/2018)
05/30/2018		MINUTE ORDER. The Court is in receipt of Defendant's <u>9</u> Motion for Extension of Time. Defendant requests a 31-day extension of time until June 25, 2018 to file an answer or other response to Plaintiff's Complaint because defense counsel is busy with other matters. This is the first motion for an extension of this deadline. As Defendant acknowledges, however, this motion was not filed in a timely manner. The Order Establishing Procedures in this case states that "[m]otions for extensions of time must be filed at least four (4) business days prior to the first affected deadline." ECF No. 4 at 3. Plaintiff opposes Defendant's Motion. Plaintiff argues that Defendant has not set forth adequate grounds for a 31-day extension. Plaintiff would, however, consent to a 14-day extension. Defense counsel has filed a reply to Plaintiff's Opposition, indicating that he also recently underwent an unexpected medical procedure and has been called for jury duty in early June. The Court finds that there are adequate grounds for the requested extension and will GRANT Defendant's Motion NUNC PRO TUNC. Defendant shall respond to Plaintiff's Complaint by no later than JUNE 25, 2018. No further extensions will be granted. Signed by Judge Colleen Kollar-Kotelly on 5/30/2018. (lcckk3) (Entered: 05/30/2018)
05/30/2018		Set/Reset Deadlines: Answer to Complaint due by 6/25/2018. (dot) (Entered: 05/31/2018)
06/21/2018	<u>13</u>	ANSWER to Complaint by U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT.(Rogers, Joshua) (Entered: 06/21/2018)
06/22/2018	<u>14</u>	ORDER. The parties shall file a Joint Status Report by no later than JULY 13, 2018. Signed by Judge Colleen Kollar-Kotelly on 6/22/2018. (lcckk3) (Entered: 06/22/2018)
06/22/2018		Set/Reset Deadlines: Joint Status Report due by 7/13/2018. (dot) (Entered: 06/22/2018)
07/12/2018	<u>15</u>	Joint STATUS REPORT by U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT. (Rogers, Joshua) (Entered: 07/12/2018)
07/13/2018		MINUTE ORDER. The Court is in receipt of the parties' <u>15</u> Joint Status Report. The parties represent that Defendant will begin to produce records to Plaintiff within the next 30 days and will thereafter release records on a rolling monthly basis. The parties will meet and confer to set a production schedule before the next Joint Status Report is filed. The parties are ORDERED to file another Joint Status Report by no later than SEPTEMBER 12, 2018, updating the Court on the status of Defendant's processing of Plaintiff's FOIA request. Signed by Judge Colleen Kollar-Kotelly on 7/13/2018. (lcckk3) (Entered: 07/13/2018)
07/13/2018		Set/Reset Deadlines: Joint Status Report due by 9/12/2018, updating the Court on the status of Defendant's processing of Plaintiff's FOIA request. (dot) (Entered: 07/13/2018)
09/12/2018	<u>16</u>	Joint STATUS REPORT by U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT. (Rogers, Joshua) (Entered: 09/12/2018)
09/14/2018		MINUTE ORDER. The Court is in receipt of the parties' <u>16</u> Joint Status Report. The parties represent that Defendant has released some documents responsive to Plaintiff's FOIA request. Defendant has also collected additional documents which are potentially responsive. The parties have agreed to a rolling release schedule of three monthly productions, concluding October 31, 2018. The first set of productions was due August 2018, but production was delayed as Defendant was required to consult with a separate federal agency. The records will still be produced by the agreed upon deadline of October 31, 2018. The parties are ORDERED to file another Joint Status Report by no later than NOVEMBER 14, 2018, updating the Court on the status of Defendant's processing of Plaintiff's FOIA request. The parties are further ORDERED to file additional Joint Status Reports every 60 days thereafter. The parties are also free to file Joint Status Reports between the filing deadlines if issues arise that require the

		Court's attention. Signed by Judge Colleen Kollar-Kotelly on 09-14-2018. (lcckk3) (Entered: 09/14/2018)
09/14/2018		Set/Reset Deadlines: Joint Status Report due by 11/14/2018, updating the Court on the status of Defendant's processing of Plaintiff's FOIA request. (dot) (Entered: 09/19/2018)
11/13/2018	<u>17</u>	Joint STATUS REPORT by U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT. (Rogers, Joshua) (Entered: 11/13/2018)
01/11/2019	<u>18</u>	MOTION to Stay by U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (Attachments: # <u>1</u> Text of Proposed Order)(Coles-Huff, Doris) (Entered: 01/11/2019)
01/15/2019		MINUTE ORDER. The Court is in receipt of Defendant's <u>18</u> Motion for Stay of All Proceedings in Light of Lapse of Appropriations. As of December 21, 2018, the appropriations act that had been funding the Department of Justice expired and appropriations lapsed. Absent an appropriation, Department attorneys are prohibited from working, even on a voluntary basis, except in limited circumstances which do not apply to this case. Defendant requests a stay of all proceedings until Congress has restored appropriations to the Department and an extension of all deadlines commensurate with the duration of the lapse in appropriations. Plaintiff consents to the relief requested. Defendant's motion is GRANTED. Defendant is ORDERED to file a status report within seven days of the restoration of appropriations, notifying the Court and the parties and requesting any appropriate extensions. Signed by Judge Colleen Kollar-Kotelly on 1-14-2019. (lcckk3) (Entered: 01/15/2019)
02/01/2019	<u>19</u>	NOTICE of Restored Government Funding by U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (Rogers, Joshua) (Entered: 02/01/2019)
02/04/2019		MINUTE ORDER. The Court is in receipt of Defendant's <u>19</u> Status Report. On January 15, 2019, the Court issued a stay in this case due to the lapse in appropriations to the Department of Justice. Appropriations have now been restored, so the Court ORDERS the stay lifted. The Court further ORDERS the parties to file a Joint Status Report on MARCH 18, 2019, updating the Court on the status of Defendant's processing of Plaintiff's FOIA request. The parties are further ORDERED to file additional Joint Status Reports every 60 days thereafter. The parties are also free to file Joint Status Reports between the filing deadlines if issues arise that require the Court's attention. Signed by Judge Colleen Kollar-Kotelly on 2-4-2019. (lcckk3) (Entered: 02/04/2019)
02/04/2019		Set/Reset Deadlines: Joint Status Report due by 3/18/2019. (dot) (Entered: 02/05/2019)
03/18/2019	<u>20</u>	Joint STATUS REPORT by U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT. (Rogers, Joshua) (Entered: 03/18/2019)
03/19/2019		MINUTE ORDER. The Court is in receipt of the parties' <u>20</u> Joint Status Report. The parties report that Defendant has produced the responsive records on schedule. However, Plaintiff has identified several issues including the sufficiency of the search and the assertion of Exemptions 4, 5, and 7(E). To give the parties time to confer, the Court ORDERS the parties to submit another status report by APRIL 17, 2019, updating the Court on the status of the issues and proposing a plan for further proceedings. Signed by Judge Colleen Kollar-Kotelly on 3/19/2019. (lcckk3) (Entered: 03/19/2019)
03/19/2019		Set/Reset Deadlines: Joint Status Report due by 4/17/2019, updating the Court on the status of the issues and proposing a plan for further proceedings. (dot) (Entered: 03/20/2019)
04/17/2019	<u>21</u>	Joint STATUS REPORT by U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT. (Rogers, Joshua) (Entered: 04/17/2019)
04/23/2019		MINUTE ORDER. The Court is in receipt of the parties' <u>21</u> Joint Status Report. Defendant reports that it requires additional time to review its withholdings and resolve or narrow the issues in dispute. Additionally, the parties require additional time to establish a schedule for production of an outstanding record, for releasing details of the agency's search methodology, and for reprocessing information withheld under Exemptions 4, 5 and 7(E). The Court ORDERS the parties to file an additional Joint

		Status Report on or before MAY 1, 2019, updating the Court on the status of the issues in dispute and proposing a schedule for further proceedings. Signed by Judge Colleen Kollar-Kotelly on 4/23/2019. (lcckk3) (Entered: 04/23/2019)
04/23/2019		Set/Reset Deadlines: Joint Status Report due by 5/1/2019, updating the Court on the status of the issues in dispute and proposing a schedule for further proceedings. (dot) (Entered: 04/24/2019)
05/01/2019	<u>22</u>	Joint STATUS REPORT by U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT. (Rogers, Joshua) (Entered: 05/01/2019)
05/02/2019		MINUTE ORDER. The Court is in receipt of the parties' <u>22</u> Joint Status Report. Based on the parties' statements, the Court ORDERS Defendant to produce the one outstanding record to Plaintiff by MAY 15, 2019, to provide Plaintiff with details of its search methodology by MAY 15, 2019, and to reprocess the portions of records identified by Plaintiff by MAY 23, 2019. Defendant indicates that these deadlines are likely to work, but Defendant has not been able to confirm with agency counsel due to agency counsel's extended personal leave. If after conferring with agency counsel, it is not possible to meet these deadlines, the parties may apply for an extension. The Court further ORDERS the parties to file by JUNE 7, 2019, a Joint Status Report informing the Court whether or not there are any remaining issues in dispute and proposing steps for going forward. Signed by Judge Colleen Kollar-Kotelly on 5/2/2019. (lcckk3) (Entered: 05/02/2019)
05/02/2019		Set/Reset Deadlines: Joint Status Report due by 6/7/2019. (dot) (Entered: 05/03/2019)
06/07/2019	<u>23</u>	STATUS REPORT by ELECTRONIC PRIVACY INFORMATION CENTER. (Scott, Jeramie) (Entered: 06/07/2019)
06/07/2019		MINUTE ORDER. The Court is in receipt of Plaintiff's <u>23</u> Status Report. On May 2, 2019, the Court ordered Defendant to produce the one outstanding record to Plaintiff by MAY 15, 2019, to provide Plaintiff with details of its search methodology by MAY 15, 2019, and to reprocess the portions of records identified by Plaintiff by MAY 23, 2019. In its status report, Plaintiff indicates that Defendant provided the one outstanding record and explained its search methodology by May 15, 2019. However, Plaintiff has not received any further communication from Defendant about the reprocessing of the records. And, when Plaintiff contacted Defendant to confer about the submission of the Joint Status Report due on June 7, 2019, Defendant did not reply. Lacking any response from Defendant, the Court will grant the relief requested by Plaintiff. The Court ORDERS Defendant to complete the reprocessing of Plaintiff's records by JUNE 20, 2019. The Court further ORDERS the parties to submit a Joint Status Report by JUNE 28, 2019, informing the Court whether or not there are any remaining issues in dispute and proposing steps for going forward. Signed by Judge Colleen Kollar-Kotelly on 6/7/2019. (lcckk3) (Entered: 06/07/2019)
06/07/2019		Set/Reset Deadlines: Joint Status Report due by 6/28/2019, informing the Court whether or not there are any remaining issues in dispute and proposing steps for going forward. (dot) (Entered: 06/12/2019)
06/10/2019	<u>24</u>	RESPONSE to Minute Order of 6/7/19 by U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (Rogers, Joshua) Modified text on 6/11/2019 (ztd). (Entered: 06/10/2019)
06/28/2019	<u>25</u>	Joint STATUS REPORT by U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT. (Rogers, Joshua) (Entered: 06/28/2019)
07/01/2019		MINUTE ORDER. The Court is in receipt of the parties' <u>25</u> Joint Status Report. Plaintiff reports that it has agreed to provide a subset of documents that are representative of the issues in dispute so that Defendant can either agree to reprocess and release the documents or provide a more detailed explanation for the withholdings. The Court ORDERS the parties to provide another Joint Status Report by JULY 29, 2019, updating the Court on the status of the issues and providing a proposal for further proceedings. Signed by Judge Colleen Kollar-Kotelly on 7/1/2019. (lcckk3) (Entered: 07/01/2019)
07/01/2019		Set/Reset Deadlines: Joint Status Report due by 7/29/2019, updating the Court on the status of the issues and providing a proposal for further proceedings. (dot) (Entered: 07/01/2019)

		07/02/2019)
07/29/2019	<u>26</u>	Joint STATUS REPORT by ELECTRONIC PRIVACY INFORMATION CENTER. (Scott, Jeramie) (Entered: 07/29/2019)
07/29/2019		MINUTE ORDER. The Court is in receipt of the parties' <u>26</u> Joint Status Report. Plaintiff reports that it has agreed to provide a subset of documents that are representative of the issues in dispute so that Defendant can either agree to reprocess and release the documents or provide a more detailed explanation for the withholdings in a Vaughn index. Plaintiff is still in the process of identifying a subset of documents and will provide these documents to Defendant by August 2, 2019. The Court ORDERS the parties to provide another Joint Status Report by AUGUST 20, 2019, updating the Court on the status of the issues and providing a proposal for further proceedings. Signed by Judge Colleen Kollar-Kotelly on 7-29-2019. (lcckk3) (Entered: 07/29/2019)
07/29/2019		Set/Reset Deadlines: Joint Status Report due by 8/20/2019, updating the Court on the status of the issues and providing a proposal for further proceedings. (dot) (Entered: 07/30/2019)
08/20/2019	<u>27</u>	Joint STATUS REPORT by U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT. (Rogers, Joshua) (Entered: 08/20/2019)
08/20/2019		MINUTE ORDER. The Court is in receipt of the parties' <u>27</u> Joint Status Report. Plaintiff has provided a subset of documents that are representative of the issues in dispute so that Defendant can either agree to reprocess and release the documents or provide a more detailed explanation for the withholdings in a Vaughn index. Defendant has agreed to provide the reprocessed documents and/or a Vaughn index by September 21, 2019. The Court ORDERS the parties to provide another Joint Status Report by OCTOBER 4, 2019, updating the Court on the status of the issues and providing a proposal for further proceedings. Signed by Judge Colleen Kollar-Kotelly on 8-20-2019. (lcckk3) (Entered: 08/20/2019)